

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent of: McGee *et al.* Confirmation No.: 1490
U.S. Patent No.: 7,601,841 B2 Art Unit: 1625
Issued: October 13, 2009 Examiner: Seaman, D. Margaret
Application No.: 10/719,997
For: QUINOLINYL AND Attorney Docket No.: 11134-096-999
BENZOTHAZOLYL MODULATORS (CAM: 893053-999097)

**REQUEST FOR RECONSIDERATION OF
PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)**

MAIL STOP PATENT EXT.

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is a second request for reconsideration of patent term adjustment for the above-identified United States Patent No. 7,601,841 B2 ("the '841 patent"), which was granted on Application No. 10/719,997 ("the '997 application"). The United States Patent and Trademark Office ("PTO") mailed a communication on August 11, 2009 ("August 11th Communication," Exhibit A) in which the PTO responded to Applicants' "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," mailed February 17, 2009, by stating that a decision on Applicants' request was being held in abeyance until after the actual patent date. In the August 11th Communication, the PTO stated that a written request for reconsideration of the patent term adjustment for PTO failure to issue the patent within three years could be filed within two months of the issue date of the patent. The '841 patent issued October 13, 2009, and, therefore, this second request, filed December 11, 2009, is timely filed within two months of October 13, 2009.

The patent term adjustment under 35 U.S.C. § 154(b) indicated on the face of the '841 patent is 326 days. Applicants hereby respectfully requests reconsideration of the patent

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The patent term adjustment calculated by the PTO correctly included the above time periods under 37 C.F.R. § 1.704(b) (*see* PTO PAIR Adjustment, Exhibit B). Applicants confirm that the sum of the above time period consists of 361 days.

CONCLUSION

In summary, the total delay under 37 C.F.R. § 1.702(a) and 37 C.F.R. § 1.702(b) is 770 days, the total delay attributable to Applicants under 37 C.F.R. § 1.704 are 361 days, and thus the total period of adjustment due under 37 C.F.R. § 1.703(f) is believed to be 409 days. Accordingly, Applicants respectfully request an adjustment of patent term under 37 C.F.R. § 1.703(f) totaling 409 days.

Applicants submit that the issues raised in this second request for reconsideration of patent term adjustment are timely raised under 37 C.F.R. § 1.705(d). No fee is believed to be due with this request, as acknowledged in the PTO's August 11th Communication (*see* Exhibit A). However, should the Commissioner determine otherwise, the Commissioner is hereby authorized to charge any required fee(s) to Jones Day Deposit Account No. 50-3013 (referencing order number 893053-999097).

Date: December 11, 2009

Respectfully submitted,



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